

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA-658-2018 (O&M)
Date of Decision: 10.05.2018

Braham Pal

--Appellant

Versus

Presiding Officer, Industrial Tribunal-cum-
Labour Court & others

--Respondents

CORAM:- HON'BLE MR.JUSTICE AJAY KUMAR MITTAL,
ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. G.S. Sawhney, Advocate for the appellant.

TEJINDER SINGH DHINDSA.J (Oral)

CM-1796-LPA-2018

Instant application has been filed under Section 5 of the Limitation Act seeking condonation of delay of 526 days that has occurred in filing the accompanying appeal.

The basis for seeking condonation is that the applicant/appellant was not aware of the law of limitation.

No ground for condonation is made out.

Application is dismissed.

Main Case

1. The instant Letters Patent Appeal has been filed under clause X of the Letter Patent against judgement dated 22.10.2016 passed by the learned Single Judge and whereby CWP-22378-2012 filed by the appellant herein was dismissed.
2. Appellant had assailed before the Writ Court the order dated 13.12.2010 passed by the Industrial Tribunal-cum-Labour Court, Chandigarh whereby an industrial dispute having been raised by the

appellant consequent to his dismissal from service, the reference has been answered against him.

3. Briefly, it may be noticed that appellant joined service with the Industrial and Tourism Development Corporation on 25.6.1991 on the post of Room Attendant in Hotel Shivalik View. He was imposed the major penalty of dismissal from service on the charge that on the intervening night of 19/20.5.2001 two lady guests had checked into Room No.406 of the hotel and the appellant had harassed the lady guests.

4. Appellant having raised a dispute, the same was referred to the Industrial Tribunal-cum-Labour Court, Chandigarh. The reference was answered against him on 13.12.2010 and the same was challenged by way of filing a writ petition. Learned Single Judge has dismissed the petition vide impugned judgement dated 22.10.2016.

5. The sole contention raised by the learned counsel representing the appellant is that during the course of inquiry proceedings the complainants had not been examined and as such the findings of the disciplinary authority recorded against the delinquent could not sustain.

6. Having heard counsel for the appellant at length, we are of the considered view that there is no merit in the instant appeal and the same deserves to be dismissed.

7. Learned Single Judge while dismissing the petition and upholding the order dated 13.12.2010 passed by the Industrial Tribunal-cum-Labour Court Chandigarh has taken note of the fact that regular departmental proceedings were initiated against the appellant after formulating specific articles of charge as regards the appellant having

misbehaved with two lady guests who had checked into the hotel. Non-examination of the complainants was observed to be of no consequence as the complainants were ladies and were not residents of Chandigarh and even otherwise it would have been embarrassing for them to have come forth and deposed.

8. Learned counsel for the appellant is not in a position to rebut the observation recorded by the learned Single Judge to the effect that during the course of inquiry the delinquent (appellant herein) in response to a particular question had admitted that the lady guests having come out of the room and having pointed towards the appellant calling him the culprit, he had then proceeded to hide himself in Room No.412.

9. We find that the charge against the appellant herein involves moral turpitude and has been duly proved during the course of regular departmental proceedings. The appellant has not been able to demonstrate any patent infirmity during the course of proceedings which led to the culmination of the imposition of major penalty of dismissal and accordingly the reference was declined by the Labour Court.

10. Learned Single Judge has minutely examined the inquiry proceedings conducted against the appellant and has recorded a finding that there was sufficient evidence brought on record to prove the charges leveled.

11. No interference in the matter is warranted.

Appeal is dismissed on merits as well as on the ground of delay.

(AJAY KUMAR MITTAL)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

10.05.2018

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No